

## MISSION STATEMENT

The Drug Court Program is a cooperative effort between the United States District Court for the Northern District of West Virginia, the United States Probation Office, the Federal Public Defender's Office, and the United States Attorney's Office to provide a rehabilitative program for individuals involved in the federal criminal justice system who are afflicted with substance abuse problems.

It is founded on the premise that many substance abusers are arrested for behavior related to their drug or alcohol addictions, and that but for those addictions, they may be able to live law-abiding, productive lives.

Substance abusers also tend to recommit the same or similar offenses, thereby increasing recidivism rates.

This program is created in recognition of the particular benefits which are possible to the participants and to the community at large if a drug court is available.

The goals of the program are to promote community safety, reduce recidivism and substance abuse among offenders, and increase the likelihood of successful rehabilitation by implementing a blend of treatment, supervision, appropriate sanctions and incentives.

## I. INTRODUCTION

The Drug Court Program is the Northern District of West Virginia's federal drug court. It is a voluntary program, of at least one year, designed for individuals who suffer from substance abuse or addiction.

Participants will engage in varying levels of treatment in order to address issues of substance abuse.

The Drug Court Program is strictly voluntary, however participants must agree to abide by all the rules and phases of the program, including its termination procedures, as well as any additional instructions or Orders issued by the presiding judge or by the supervising Probation Officer.

Regularly scheduled Court hearings, which the participant must attend, will be held twice a month to assess participant progress.

Each participant's involvement in the program will be confirmed in a written agreement, which outlines the expectations and obligations of all participants. This agreement is signed by the participant, his or her defense counsel, and the Drug Court Program's Supervisory U.S. Probation Officer before it is approved and signed by the presiding judge.

***Although no outcome is guaranteed, upon a participant's successful completion of the program,*** he or she can receive a motion for downward departure, reduction of the charges to a

lesser offense, recommendation for a non-guideline sentence, referral to pre-trial diversion, or dismissal of the charges entirely.

Post-conviction defendants/participants may be admitted to the program after they have been charged with a violation of their supervised release, but before they have been sentenced on that violation. Post-conviction defendants who successfully complete the may receive a one-year reduction in their term of supervised release or probation.

Failure to abide by the mandates of the program may result in the participant being terminated from the program and returned to the traditional Court process. Violation proceedings may be initiated for those participants on supervised release or probation. (See Section XI)

Because this program is strictly voluntary, the participant is free to withdraw at any time. Participants who withdraw will be transferred to the original presiding judge and return to the traditional Court process and proceedings.

The National Association of Drug Court Professionals has identified ten key components for successful Drug Courts. These elements, as set forth below, are considered essential to a Drug Court's success, and the Drug Court Program strives to incorporate all of them:

- 1) Drug Courts integrate alcohol and other drug treatment services with justice system case processing.
- 2) Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- 3) Eligible participants are identified early and promptly placed in the Program.
- 4) Drug Courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- 5) Abstinence is monitored by frequent alcohol and other drug testing.
- 6) A coordinated strategy governs Drug Court responses to participants' compliance.
- 7) Ongoing judicial interaction with each Program participant is essential.
- 8) Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
- 9) Continuing interdisciplinary education promotes effective Program planning, implementation, and operations.
- 10) Forging partnerships among Drug Courts, public agencies, and community-based organizations generates local support and enhances Drug Court program effectiveness.

## II. LEGAL AUTHORITY

Pursuant to Section 3154 of Title 18, United States Code, pretrial services officers are authorized to provide for the custody, care, counseling, treatment or other necessary social services to defendants released under pretrial supervision. The objective of support services for defendants on pretrial release is to ensure the safety of the community and to provide defendants with the structure and stability necessary to reasonably assure their appearance in court as required.

Treatment and other support services provide the judge with alternatives to pre-sentence detention for those defendants who require close supervision and behavior monitoring.

## III. TEAM MEMBERS & THEIR ROLES

The Drug Court Program Team consists of the presiding judge, the U.S. Attorney's Office, the Federal Public Defender's Office, the U.S. Probation Office, and one or more designated community treatment providers. Each member's basic role is outlined below.

**The Court:** The presiding judge leads the Drug Court Program Team and works with other team members to achieve the program's goals. The presiding judge approves or denies the applications of all Drug Court Program applicants. His or her active involvement with program participants is essential to the Drug Court Program's success. He or she provides encouragement and rewards participants when they are performing well in the program. When participants are in non-compliance with program rules, engage in other misconduct, or are in violation of supervision, the presiding judge, with input from the Drug Court Program Team, will impose appropriate sanctions based on the nature of the participant's non-compliance. When possible, sanctions should be progressive in terms of severity. While other members of the Drug Court Program provide input regarding the need for sanctions, including whether a participant has exhausted his or her opportunities to continue in the program, the presiding judge makes all final decisions regarding sanctions and terminations from the program. He or she presides over all team meetings and court hearings, including status conferences held for individual participants.

**Supervising Probation Officer:** The supervising probation officer assigned to the Drug Court Program supervises all Drug Court Program participants, and works with other Drug Court Program team members to achieve program goals. He or she is charged with making appropriate treatment referrals with contract and non-contract agencies based on the needs of the individual participant. The supervising probation officer works with the treatment agencies to ensure effective communication between the treatment providers and the Drug Court Program Team. The supervising probation officer regularly reports on the progress of Drug Court Program participants. He or she attends all team meetings and court hearings, including all status conferences held for individual participants. In preparation for court sessions, the supervising probation officer prepares reports in order to inform the Drug Court Program Team of the participant's status via the program progress report.

When problems arise with individual participants, the supervising probation officer works with other members of the Drug Court Program Team to intervene as needed. He or she promptly reports to the Drug Court Program Team regarding all such interventions.

The supervising probation officer maintains each participant's file, which contains a clearly identified separate section where all Drug Court Program documents will be retained, including a fully executed copy of the participation agreement, progress reports, treatment records, and results of drug testing.

**The Assistant United States Attorney:** The United States Attorney's Office, through the attorney assigned to the Drug Court Program, works with other Drug Court Program members to achieve program goals. The United States Attorney representative may also evaluate eligibility of candidates as part of the Program Team. The United States Attorney representative reports, or comments, on the progress of participants and advocates on behalf of the government. He or she attends all team meetings and court hearings, including all status conferences held to address issues with individual participants. He or she makes recommendations regarding sanctions, including termination, and participates in all program planning decisions.

**Assistant Federal Public Defender/Defense Counsel:** The assistant federal public defender assigned to the Drug Court Program works with other Drug Court Program Team members to achieve program goals. Whenever possible, the assistant federal public defender is appointed to represent Drug Court Program participants for purposes of drug court only. The assistant federal public defender may refer defendants to the program. He or she reports, or comments, on the progress of participants and advocates on behalf of his or her clients. He or she attends all team meetings and court hearings, including all status conferences held to address issues with individual participants. He or she makes recommendations regarding sanctions, including termination, and participates in all program planning decisions.

Defense Counsel is available to assist the Probation Officer in encouraging program participants to succeed in treatment, discourage poor decisions and disinterest in the program at their first sign, and to participate in decisions about program planning.

The FPD/Defense Counsel may also report on the participant's progress during the Court session.

**The Treatment Provider(s):** The treatment provider(s) work with other Drug Court Program Team members to achieve program goals. The treatment provider assesses each participant, determines the appropriate level of substance abuse treatment, and provides said treatment. The treatment providers provide regular bi-monthly progress reports to the Drug Court Program Team. He or she attends all team meetings and all drug court hearings. The treatment provider makes recommendations regarding sanctions, including termination, and participates in all program planning decisions.

**Court Staff:** Members of the courthouse staff support the Drug Court Program in a number of ways. Court staff work with the supervising probation officer to prepare reports for the entire Drug Court Program Team; prepare the presiding judge for drug court hearings and status

conferences; record minutes for each drug court hearing; and provide assistance in all other aspects of the program as necessary. Court staff members make recommendations regarding sanctions, including termination, and participate in all program planning decisions.

#### **IV. PROGRAM ELIGIBILITY**

The Drug Court Program is designed for non-violent federal defendants, with a history of drug or alcohol addiction.

Individuals who are registered as sex offenders, **or who have a prior felony conviction for a crime of violence**, or a history of violent crime, sex offenses or a severe mental condition are not eligible for the Drug Court Program. A participant must not pose a danger to the community and must exhibit a willingness to participate in treatment and to comply with the stringent conditions of the program.

When considering individuals for admission to the Drug Court Program, the following eligibility criteria are considered:

- Verified evidence of current, or past, substance abuse and/or addiction
- Nature of pending charge, criminal history, and danger posed to the community
- Unrelated pending criminal cases, active warrants, or active capias
- Prior drug- or alcohol-related arrests/convictions
- Prior participation in drug treatment
- Mental health history with manageability of conditions
- History of sex offense convictions or charges;
- Reliable transportation for all required program events; and
- Desire to enter the program, as well as willingness and ability to comply with the requirements

Offenders must voluntarily enter the program, agree to all requirements and stipulations of the program, and sign the participant agreement.

For additional guidance, see **Appendix 1, Expanded Eligibility Criteria**.

#### **V. THE REFERRAL PROCESS**

Judges, defense attorneys, probation officers, Drug Court treatment team members, and/or family members may refer criminal defendants to the Drug Court Program by completing an Initial

Referral Form, found on the U.S. Probation Office website, and submitting it to the U.S. Probation Office. See **Appendix 2, Initial Referral Form**.

After a defendant has been referred to the Drug Court Program, the United States Probation Office, in conjunction with the treatment provider, then screens the candidate's criminal record, substance abuse and/or mental health history, willingness and ability to participate in the program, as well as other relevant factors to determine suitability for the program. As part of this screening process, the Probation Office usually interviews the criminal defendant and discusses the program's requirements.

After the Probation Office completes this preliminary assessment, the Drug Court Program Team members charged with assessing eligibility review the referrals and the results of the assessment at periodic meetings, scheduled at the discretion of the presiding judge. Any interested party may also provide supplemental information for the Team's consideration.

If the supervisory probation officer determines that a criminal defendant may be an appropriate candidate for the Drug Court Program, he or she presents that candidate to the presiding judge for his or her approval. When considering candidates for the Drug Court Program, both the supervisory probation officer and the presiding judge review the eligibility criteria described above, and in the expanded eligibility criteria. If the presiding judge agrees to accept the defendant into the Drug Court Program, the supervising probation officer also seeks approval from the district judge assigned to the case.

If deemed eligible for the Program, a candidate who is not already in substance abuse treatment, will then be referred for a thorough substance abuse evaluation. If assessed as a substance abuser/addict, and viewed by the treatment provider as an appropriate candidate, the candidate for the Drug Court Program, he or she will then be immediately accepted into the program.

## **VI. PROGRAM ENROLLMENT**

Upon acceptance into the Drug Court Program, a participant must review the Participant Overview and execute the Participant Agreement before beginning to participate in the program. The Participant Agreement outlines the Drug Court Program's rules and sets forth what is expected of the participant. The Agreement must be signed by the participant and his or her attorney, the supervisory U.S. probation officer, and the presiding judge. When completing the Participant Agreement, the defendant also acknowledges whether he or she consents to the appointment of the assistant federal public defender as his or her attorney solely for the purpose of the Drug Court Program. (See **Appendix 3, Drug Court Program Participant Agreement**, and **Appendix 4, Drug Court Program Participant Overview**, for more details)

Participants are generally expected to complete the Drug Court Program in twelve (12) to eighteen (18) months. The length of the program depends, in large part, on the individual participant's ability to succeed in the program. Individuals who struggle in treatment, but remain dedicated to recovery, may be given an extension of time to complete the program.

## **VII. PROGRAM PHASES**

The Drug Court Program consists of three phases, which are designed to provide each participant with the opportunity to establish a sober and crime-free lifestyle. The phases encourage participants to develop an understanding of their substance abuse/dependence by recognizing patterns of use, factors that influence use, and the impact of use on themselves, their families and their communities. Each phase has a specific purpose with distinct and achievable goals, and participants must successfully complete all phases in order to graduate from the Drug Court Program. The presiding judge and the Drug Court Program Team will determine if and when a participant has successfully completed the Drug Court Program.

### **Phase One: Early Recovery**

**Phase Length:** Approximately four (4) months

**Goal:** Participants abstain from drug and alcohol use, engage in treatment and stabilize in the appropriate level of treatment services. During this phase, participants develop an understanding of addiction, patterns of use, and factors that influence use. Participants establish early recovery tools and a foundation of support for recovery.

#### **Expectations for Participants:**

- Abstain from use of all mood & mind altering drugs or alcohol, even if those substances are legally available;
- Remain crime free;
- Comply with all bond or supervised release conditions;
- Attend all Drug Court Program court hearings, which occur twice a month;
- Participate in substance abuse treatment as directed;
- Attend **at least three (3)** self-help meetings weekly and submit verification;
- Submit to drug and alcohol testing as ordered by the presiding judge, or as deemed appropriate by the supervising probation officer
- Submit to community and/or home visits as deemed appropriate by the supervising probation officer;
- Develop a plan, approved by the supervising probation officer, to comply with any court-ordered restitution, and, if possible, begin making payments;

- Complete and submit for approval a phase report that reflects on progress in the program and sets goals for the next phase;
- Maintain sobriety **for at least two consecutive months** prior to moving into Phase Two; and
- Complete other requirements as determined by the presiding judge or the supervising probation officer

## **Phase Two: Primary Treatment & Continued Care**

**Phase Length:** Approximately five (5) months

**Goal:** The participant will begin to identify and understand adverse consequences of drug/alcohol use and take responsibility for the same. Participant will continue abstinence and continue to build a sober support network in the community.

**Expectations:**

- Abstain from use of all mood- & mind-altering drugs or alcohol, even if those substances are legally available;
- Remain crime free;
- Comply with all bond or supervised release conditions;
- Attend all Drug Court Program court hearings, which occur twice a month;
- Participate in substance abuse treatment as directed;
- Attend **at least three (3)** self-help meetings weekly and submit verification;
- Submit to drug and alcohol testing as ordered by the presiding judge, or as deemed appropriate by the supervising probation officer
- Submit to community and/or home visits as deemed appropriate by the supervising probation officer;
- Seek and secure full-time employment/community service or enroll/attend an educational/vocational program as deemed appropriate by the supervising probation officer;
- Identify personal wellness activity and begin weekly participation;



- Begin or continue making payments toward any court-ordered restitution;
- Complete and submit for approval a phase report that reflects on progress in the program and sets goals for the next phase;
- Maintain sobriety for **at least three consecutive months** prior to moving to Phase Three; and
- Complete other requirements as determined by the Court or the supervisory probation officer.

### **Phase Three: Relapse Prevention Planning**

**Phase Length: Approximately three (3) months**

**Goal:** Participants secure long-range recovery needs and develop and finalize a relapse prevention plan

**Expectations:**

- Abstain from use of all mood- & mind-altering drugs or alcohol, even if those substances are legally available;
- Remain crime free;
- Comply with all bond or supervised release conditions;
- Attend all Drug Court Program court hearings **once a month**
- Participate in substance abuse treatment as directed;
- Attend **at least three (3)** self-help meetings weekly and submit verification;
- Submit to drug and alcohol testing as ordered by the presiding judge, or as deemed appropriate by the supervising probation officer
- Submit to community and/or home visits as deemed appropriate by the supervising probation officer;
- Maintain full-time employment or community service commitments or full-time student
- Continue weekly personal wellness activity;

- Complete any court-ordered restitution;
- Complete and submit for approval a relapse-prevention plan which includes continued recovery goals; and

Maintain sobriety for at least **twelve consecutive months** prior to moving out of and graduating from the Drug Court Program. If a participant in the program tests positive for drugs or alcohol, or fails to report for a scheduled drug test without a viable excuse, the twelve- month period will begin again.

## **VIII. DRUG COURT HEARINGS**

In advance of the regularly-scheduled drug court hearings, the supervising probation officer and court staff prepare and distribute progress reports to the Drug Court Program Team. These reports describe both successes and problems experienced on supervision, which may be treatment related, or otherwise.

Before each drug court hearing, the Drug Court Program Team will meet to review the progress reports for each participant and discuss each participant's progress. The entire Team may provide recommendations and suggestions to the presiding judge as to how the participants' problems and successes should be addressed.

Participants and the Drug Court Program Team assemble at the regularly-scheduled drug court hearings. The hearings are recorded, and participants ordinarily appear before the same judge throughout their enrollment in the Drug Court Program.

If a participant has elected to retain drug court counsel other than the federal public defender, that counsel also attends the drug court hearing, unless he or she has been excused by the presiding judge from appearing. Participants report on their progress and team members comment on the participants' successes or failures. Any Drug Court Program bond, or supervised release violations are addressed by the presiding judge. Participants are expected to freely discuss their treatment and all other circumstances related to rehabilitation, including factors affecting their ability to accomplish treatment objectives and personal goals, with the presiding judge. The presiding judge rewards or sanctions participants as appropriate.

A participant may request that relatives or friends be present at any conference.

When necessary, the Program Team may agree to a particular sanction or treatment intervention prior to the participant's next scheduled court session, pending a final determination by the Court as to the appropriate course of action.

## **IX. SUPERVISION & CASE MANAGEMENT**

The supervision of participants in the Drug Court Program is multi-dimensional. It is more intense and requires the collaboration and flexibility of the Court, the supervisory probation officer, the treatment provider, and the participant.

In addition to the regularly scheduled Court hearings, the participant is required to report to the supervisory probation officer and treatment provider as directed.

The supervisory probation officer maintains frequent contact with the participant, his or her family members or significant others, and treatment providers, and provides the presiding judge with status reports documenting the participant's attendance and progress in treatment.

The supervisory probation officer also verifies on a regular basis, the participant's residence and employment, if applicable, as well as his or her means of financial support.

Criminal record checks are also conducted regularly, and participants are tested for illicit drug and alcohol use as directed by the supervisory probation officer or treatment provider.

Progress reports prepared by the supervisory probation officer are provided to the Drug Court Program Team. If the participant has counsel other than the assistant public defender, he or she also receives the participant's progress reports. These reports describe both the successes and the problems experienced on supervision, which may be treatment related, or otherwise. The supervisory probation officer is available to discuss a participant's adjustment to supervision as a member of the Drug Court Program at the request of the Judge, the government or defense counsel.

Because of the voluntary nature of the program, the participant has the right to withdraw from the program at any time. A participant who voluntarily withdraws from the Drug Court Program is returned to traditional supervision.

## **X. INCENTIVES AND REWARDS**

Participation in the Drug Court Program offers many rewards. Most importantly, participants receive substance abuse treatment and regain hope for sober and crime free lives. *Although no outcome is guaranteed, upon a participant's successful completion of the program,* Pre-trial defendants who successfully complete the Drug Court Program can expect the United States Attorney's Office, in its own discretion, to move for a downward departure, reduce the charges to a lesser offense, recommend a non-guideline sentence, refer the defendant to pre-trial diversion, or dismiss the charges entirely. Post-conviction defendants who successfully complete the Drug Court Program can expect to have their supervised release or probation terms reduced by one year.

As participants advance through the phases of the Drug Court Program and meet their established goals, they may receive additional rewards during drug court hearings. These rewards may include, but are not limited to the following:

- Applause, verbal praise, and special recognition of achievements;
- Written recognition or certificates of achievement;
- Reduced frequency of court appearances;
- Decreased frequency of drug testing;
- Elimination of curfew, home detention, or location monitoring;
- Promotion to the next phase;
- Recovery materials; and
- A graduation certificate upon program completion

## **XI. VIOLATIONS AND SANCTIONS**

Sanctions are imposed on participants who engage in misconduct, or who do not comply with drug court protocols, as a way of deterring future misconduct. Violations of any type will be reported to the presiding judge. Sanctions are imposed with progressive severity and are designed to encourage consequential thinking, to prompt the participant to reflect on his or her behavior and to stay away from people and places that constitute negative influences, and to motivate the participant to become more involved in the community. Sanctions may be addressed in the regularly-scheduled drug court hearings or at separate status conferences held by the presiding judge. The Judge will not sanction a defendant in the absence of counsel, who will, along with the participant, have an opportunity to be heard. The following is a non-exhaustive list of behavior that the Drug Court Program Team considers to be sanctionable misconduct:

- Dishonesty with members of the Drug Court Program Team, including the presiding judge, supervising probation officer, and treatment provider;
- Unexcused absence from court hearings, meetings with the supervising probation officer, or sessions with the treatment provider;
- Positive alcohol or drug test results;
- Missed alcohol or drug tests, or refusal to submit to urinalysis testing;
- Submission, or attempted submission, of adulterated urine sample;

- Failure to maintain and/or seek employment, community service, or student status as directed;
- New arrest; and Failure to comply with court-ordered restitution and/or financial obligations.

The following is a non-exhaustive list of sanctions that the presiding judge may impose in response to sanctionable misconduct:

- Verbal or written reprimands;
- Increased frequency of attendance at drug court hearings;
- Increased meetings with supervising probation officer and/or treatment provider;
- Increased drug and alcohol testing;
- Increased length of phase;
- Community service hours;
- Curfew or home confinement with, or without, location monitoring
- Placement in a residential reentry center or halfway house;
- Placement in an in-patient or out-patient addiction treatment program;
- Days spent in custody of the U.S. Marshal's Service;
- Incarceration of varying length, generally no more than seven (7) days;
- Revocation of bond; and
- Termination from the Program with or without the filing of a formal violation. (See Termination, Section XII.)

## **XII. TERMINATION FROM PROGRAM**

Participants may be terminated from the Drug Court Program in four different ways: Successful Termination; Unsuccessful Termination with Return to Regular Supervision; Termination with a Formal Violation; or Administrative Discharge.

**1. Successful Termination:** Successful termination occurs when a participant completes the program successfully. Successful termination is recognized with a graduation ceremony and participants are awarded a Certificate of Completion.

Following successful completion of the Drug Court Program, if the previously sentenced participant is revoked from supervision for other reasons, he/she will be subject to revocation and incarceration, but any term of supervision imposed following the term of incarceration will be reduced by one year.

**2. Unsuccessful Termination with Return to Regular Supervision:** This type of unsuccessful termination occurs when various circumstances make it appropriate to terminate a participant. Termination may occur at the participant's request, or upon the joint recommendation of the Drug Court Program Team that although the participant has not committed a serious violation of the program rules, he or she is not succeeding in the program.

A participant who has become a threat to public safety or to program integrity will be terminated immediately.

The presiding judge has the sole authority to terminate an unsuccessful participant's involvement in the program. These determinations are not subject to appellate review.

Participants terminated under this section are transferred back to traditional supervision without a violation charge, or a hearing.

**3. Termination With a Formal Violation:** This type of unsuccessful termination occurs when the participant has committed a serious violation of the program rules and the presiding judge determines that participation in the Drug Court Program is no longer possible. The participant is returned to traditional supervision and generally faces a violation hearing before a non-program magistrate judge or a district judge.

The following is a non-exhaustive list of the types of misconduct that may result in unsuccessful termination with a formal violation:

- Criminal conduct;
- Repeated drug use;
- Repeated failure to cooperate with the supervising probation officer;
- Repeated failure to cooperate with a treatment provider;
- Failure to comply with sanctions ordered by the presiding judge; and
- Repeated failure to comply with the program's rules, orders from the presiding judge, and/or direction given by the supervising probation officer.

It is the policy of the U.S. Probation Office not to allege a formal violation for conduct that has already been addressed within the Drug Court Program. After the criminal defendant has been terminated from the program with a formal violation, however, the U.S. Probation Office will

advise the judicial officer presiding over the violation hearing of all conduct that has taken place during the period of supervision, including successes, failures, and sanctions that occurred while the defendant participated in the Drug Court Program.

The presiding judge has the sole authority to terminate an unsuccessful participant's involvement in the program. These determinations are not subject to appellate review.

**4. Administrative Discharge:** Administrative discharge occurs when participation in the Drug Court Program is no longer practical for reasons such as long-term illness or the need for a participant to re-locate. This type of termination is considered neither successful nor unsuccessful. Participants who are administratively discharged are returned to their traditional supervision, but may be permitted to return to the program at a later date in the event their circumstances change.

### **XIII. DATA COLLECTION AND ASSESSMENT**

The supervising probation officer maintains a statistical database for each participant in the Program, which includes the case specifics, demographic data and case outcomes. On an annual basis, a report is provided to the Chief Judge and the Chief Probation Officer detailing the progress and accomplishments of the Drug Court Program and of its participants. The Drug Court Program Team, at the discretion of the presiding judge, also periodically assesses the need for revision or modification of the Drug Court Program. When deemed necessary, after consultation with the program team, the presiding Judge, by directive, or by the entry of a standing Order, decrees that the Drug Court Program standards be appropriately amended, modified, or revised.

## Appendix 1

### Expanded Eligibility Criteria



UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
WEST VIRGINIA

## Drug Court Program

### Expanded Eligibility Criteria

This document provides expanded guidance regarding the eligibility criteria included in the Drug Court Program's *Mission Statement & Policies*. The following criteria are considered by the Drug Court Program Team when determining whether to admit an individual to the program. **No single consideration is necessarily dispositive. No combination or quantity of favorable and unfavorable factors will be determinative.**

Criminal defendants with a history of violent crime, sex offenses, or severe mental health conditions are not eligible for the program. Juveniles are not eligible for the program.

#### PROGRAM ELIGIBILITY CRITERIA

**History of current substance abuse and/or addiction:** The team may consider whether or not the pending federal offense was motivated by the defendant's substance abuse and/or addiction.

**Unrelated pending criminal cases, active warrants, or active capias:** The presence of such other pending federal, state, or local cases or warrants may disqualify a candidate from participation in the program.

**Mental health comorbidities and their severity:** The team may consider the severity of condition or disorder as well as any relevant treatment and medicinal demands.

**Desire to enter the program as well as willingness and ability to comply with requirements:**  
The team may consider:

- Whether or not the defendant is a citizen of the United States or is otherwise lawfully present here;
- Whether the defendant is an adult or a juvenile;
- Any prior substance abuse treatment failures; and
- Whether the defendant can otherwise fully participate in and comply with the requirements of the program.

Nature of pending charge, criminal history, and danger posed to the community: The team may consider:

- The drug quantity involved in the offense that is the subject of the pending federal charge;
- Whether the pending federal charge involved death or bodily injury to another person;
- Whether the defendant used violence or credible threats of violence or possessed a firearm, dangerous weapon, or body armor (or induced another to do so) in connection with the offense that is the subject of the pending federal charge;
- Whether the defendant engaged in obstruction of justice, intimidation or retaliation against a potential witness in the context of the pending federal offense;
- The nature and kind of the defendant's involvement in any alleged conspiracy;
- Whether or not the defendant was an organizer, leader, manager, or supervisor of others in the offense that is the subject of the pending federal charge;
- The degree of sentencing exposure;
- The presence of prior convictions for a serious violent offense, including but not limited to, any offense that has as an element the use, attempted use, or threatened use of physical force against another person;
- Whether the defendant is a member of a criminal street gang; and
- Whether the defendant is a member of any group espousing violence against the United States.

History of sex offense convictions or charges: The team may consider relevant pending or prior convictions, including but not limited to convictions for:

- Stalking;
- Child pornography; and
- Any offense involving any conduct codified in 18 U.S.C. §§ 109A, 109B, 110, and 110A.

Reliable transportation: The team may consider whether the defendant has the ability to attend the program's many required events, including court hearings, self-help meetings, appointments with treatment providers, and drug testing.

## Appendix 2

### Initial Referral Form

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Drug Court Program  
Initial Referral Form

Date:

To: Terry L. Huffman, Chief U. S. Probation Officer  
U.S. Probation Office  
P.O. Box 248  
Wheeling, WV 26003  
[Terry\\_Huffman@wvnp.uscourts.gov](mailto:Terry_Huffman@wvnp.uscourts.gov)  
Office: (304) 232-8474  
Fax: (304) 232-1341

From:

Email:

Phone:

Fax:

Subject: Drug Court Program Referral

---

I hereby refer the following defendant to the Drug Court Program:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Defendant's Address

Or Location: \_\_\_\_\_

Case Number: \_\_\_\_\_

Defense Attorney: \_\_\_\_\_ Phone: \_\_\_\_\_

AUSA: \_\_\_\_\_ Phone: \_\_\_\_\_

**BASIS FOR REFERRAL:** *Please include any pertinent information that will assist in determining if this individual is a suitable Drug Court Program referral, including: (1) whether he or she has reliable transportation for regular treatment appointments, court hearings, and self-help meetings; (2) any prior or current treatment for substance abuse; and (3) his or her commitment to drug treatment and the program's strict demands.*

## Appendix 3

### Participant Agreement

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
**Drug Court Program**

**Participant Agreement**

I, \_\_\_\_\_, wish to participate in the Northern District of West Virginia's Drug Court Program, a federal drug court. I understand that if I am accepted into the Drug Court Program, I agree to fully comply with all program requirements, all other court orders, and any orders that govern the conditions of my bond or supervised release. I understand that failure to comply with the terms of this agreement, other Drug Court Program requirements, or court orders may result in the imposition of sanctions or, ultimately, in my termination from the Drug Court Program. I also understand that any misconduct I may commit while I am a Drug Court Program participant could result in the revocation of my bond, probation, or supervised release.

\_\_\_\_\_ I agree that I will not violate any federal, state, or local laws, and I acknowledge that I may be immediately terminated from the Drug Court Program if I am charged with any such violations.

\_\_\_\_\_ I agree that I will not use any mood- or mind-altering drugs or alcohol, even if those substances are legally available.

\_\_\_\_\_ If I am placed on bond before or during my participation in the Drug Court Program, I agree that participation in the Drug Court Program is a condition of my bond.

\_\_\_\_\_ If I am placed on supervised release before or during my participation in the Drug Court Program, I agree that participation in the Drug Court Program is a condition of my supervision.

\_\_\_\_\_ I agree that I will be honest and candid with the Drug Court Program's presiding judge, my supervising U.S. Probation Officer(s), and other members of the Drug Court Program Team.

\_\_\_\_\_ I agree to obey all instructions and orders given to me by the Drug Court Program's presiding judge and by my supervising U.S. Probation Officer(s).

\_\_\_\_\_ I agree to report to my supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, every contact I have with law enforcement personnel, including arrests, questioning, or traffic stops.

\_\_\_\_\_ I agree to notify my supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, of changes in any of the following: my home address; my phone number(s); my employment; and my educational pursuits.

- \_\_\_\_\_ I agree to notify my supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, if I lose my mobile telephone.
- \_\_\_\_\_ I understand that in order to qualify for the Drug Court Program I must meet certain legal and clinical criteria, and that there is no right to acceptance, or guarantee that I will be accepted.
- \_\_\_\_\_ I understand that, while I am being considered for the Drug Court Program, my criminal case will continue, I must continue to make all scheduled criminal or other court appearances, and that a warrant for my arrest will be issued if I fail to attend court hearings.
- \_\_\_\_\_ I agree to participate in the evaluation process to determine if I qualify for the Drug Court Program and to help me decide if I want to enter the program if I qualify.
- \_\_\_\_\_ I agree to cooperate in the intake process, including filling out forms and providing information, consents, and releases so that the Drug Court Program can obtain relevant information about me, including medical, mental health, and substance abuse treatment information.
- \_\_\_\_\_ I agree to participate in psychological, substance abuse, and risk evaluations that may include completing written forms and tests and interviews with mental health and/or substance abuse professionals.
- \_\_\_\_\_ I agree to permit the Drug Court Program Team to share the information they obtain about me among themselves and with the mental health professionals who evaluate me to determine whether I qualify for the Drug Court Program.
- \_\_\_\_\_ I agree to submit to drug testing as directed by the Drug Court Program presiding judge or my supervising U.S. Probation Officer(s).
- \_\_\_\_\_ I agree to immediately enroll in a substance abuse treatment program as directed by the Drug Court Program's presiding judge or my supervising U.S. Probation Officer(s). I further agree to abide by the rules and regulations of that program until I am discharged from that program.
- \_\_\_\_\_ I agree that I will participate in Alcoholics Anonymous, Narcotics Anonymous, or another court-approved self-help program as directed by the Drug Court Program's presiding judge or my supervising U.S. Probation Officer(s).
- \_\_\_\_\_ I agree to execute release forms that allow my supervising U.S. Probation Officer(s) to access any and all of my financial records, including but not limited to records maintained by banks, credit unions, credit reporting services, and the Social Security Administration.

- \_\_\_\_\_ I agree to execute release forms that allow my supervising U.S. Probation Officer(s) to access any and all of my health records, including but not limited to records held by hospitals, health care providers, and pharmacies.
- \_\_\_\_\_ I agree to allow my supervising U.S. Probation Officer(s) to access and monitor any and all of my social networking accounts, including **but not limited to** Facebook, Twitter, and Instagram.
- \_\_\_\_\_ I agree to allow my supervising U.S. Probation Officer(s) to access and monitor my educational records, including any online accounts that allow me to check my interim and final grades.
- \_\_\_\_\_ I understand that members of the Drug Court Program Team may gather relevant information from members of my family, which may include family, social and clinical history.
- \_\_\_\_\_ I agree to notify all health care providers of the specifics of my substance abuse addiction, particularly before those health care providers prescribe any medication to me.
- \_\_\_\_\_ I agree to report to my supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, every contact I have with health care personnel, including but not limited to physician and emergency room visits.
- \_\_\_\_\_ I agree to report to my supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, any and all medication that has been prescribed to me. I further agree that I will notify my supervising U.S. Probation Officer(s) that I have received a prescription before I begin taking that medication.
- \_\_\_\_\_ I agree that I will use prescription medication only in the manner in which it has been prescribed to me. I agree that I will use over-the-counter medication only in keeping with that medication's directions or as recommended by my health care provider.
- \_\_\_\_\_ I agree to undergo record checks for up to three (3) years following the termination of my term of supervision only for purposes of the Drug Court Program evaluation.
- \_\_\_\_\_ I will not disclose confidential information discussed in Drug Court Program hearings to anyone not in attendance at those hearings.
- \_\_\_\_\_ I understand that the identity of all Drug Court Program participants must be kept confidential and I agree that I will not disclose the identity of the Drug Court Program participants to non-participants.



- \_\_\_\_\_ I will not associate with any Drug Court Program participants outside of the status hearings, drug treatment sessions, and self-help meetings, unless my supervising U.S. Probation Officer(s) expressly permits me to do so.
- \_\_\_\_\_ I will not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless my supervising U.S. Probation Officer(s) expressly permits me to do so.
- \_\_\_\_\_ If accepted into the Drug Court Program, I agree that, if applicable, my right to a speedy trial will be tolled while I continue in the Drug Court Program, and I otherwise waive having my case heard within applicable time limits.
- \_\_\_\_\_ I understand that information provided during Drug Court Program hearings may not be protected by any privilege, and could be used against me in future court proceedings.
- \_\_\_\_\_ I understand that should I fail to appear for any of the Drug Court Program's status hearings, a warrant may be issued for my arrest only for purposes of the Drug Court Program evaluation.
- \_\_\_\_\_ I understand that the United States Attorney's Office may petition – at any time – for my termination from the Drug Court Program. I understand that the decision regarding termination rests in the sole discretion of the Drug Court Program's presiding judge.
- \_\_\_\_\_ I have not been promised any particular outcome with regards to the resolution of the federal charges or supervised release violation that I am currently facing. I understand that if I successfully complete the Drug Court Program, the United States Attorney's Office – in its sole discretion – may move for downward departure regarding my sentence, reduce or dismiss my charges, recommend a non-guideline sentence, refer me to Pretrial Diversion, or move for reduction in the term of my supervised release or probation.
- \_\_\_\_\_ I understand that, upon my successful completion of the Drug Court Program the Drug Court Program's presiding judge may recommend that I attend up to twelve bi-monthly counseling sessions as part of an after-care program for graduates. I agree that the district judge presiding over my sentencing, bond hearing, or supervision hearing may, in his or her sole discretion, order me to attend these counseling sessions. These counseling sessions, if required, will be provided at no or low cost to me.
- \_\_\_\_\_ I understand that information about my case may be used for statistical purposes to evaluate the Drug Court Program.
- \_\_\_\_\_ I understand that acceptance into the Drug Court Program is within the sole discretion of the presiding judge and is not subject to appellate review of any type.

I have read the *Participant Overview* and this *Participant Agreement*, or they have been read to me, and I understand the terms and conditions of my participation in the Drug Court Program. I agree to fully comply with these terms and conditions. By agreeing to participate in the Drug Court Program, I consent to the disclosure of my confidential information to Drug Court team members; I also consent to the disclosure of confidential information during Drug Court Program hearings as appropriate. I understand that this is a voluntary program. By agreeing to participate in the Drug Court Program, I agree that I will abide by all of the program's rules.

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Date

I have advised my client of all of the Drug Court Program's terms and conditions. I believe that my client fully understands those terms and conditions, and that he or she knowingly and voluntarily seeks permission to participate in the Drug Court Program.

\_\_\_\_\_  
Attorney for Participant

\_\_\_\_\_  
Date

I recommend the above-named individual for participation in the Drug Court Program.

\_\_\_\_\_  
U.S. Probation Officer, Northern District of West Virginia

\_\_\_\_\_  
Date

I approve the above-named individual for participation in the Drug Court Program.

\_\_\_\_\_  
JOHN PRESTON BAILEY  
U.S. District Judge

\_\_\_\_\_  
Date